

National Credit Union Administration

§ 742.4

this chapter, has remained “well capitalized” for six (6) consecutive preceding quarters after applying the applicable RBNW requirement.

(b) *Application for designation.* A credit union that does not automatically qualify under paragraph (a) of this section may apply for a RegFlex designation, which may be granted in whole or in part upon notification by the appropriate Regional Director, provided the credit union has either:

(1) *CAMEL.* Received a composite CAMEL rating of “3” or better for the preceding examination; or

(2) *Net worth.* Maintained a net worth classification of “well capitalized” under part 702 of this chapter for less than six (6) consecutive quarters or, if subject to an RBNW requirement under part 702 of this chapter, has remained “well capitalized” for less than six (6) consecutive preceding quarters after applying the applicable RBNW requirement.

§ 742.3 Loss and revocation of RegFlex designation.

(a) *Loss of authority.* RegFlex authority is lost when a credit union that qualified automatically under the CAMEL and net worth criteria in § 742.2(a) no longer meets either of those criteria. Once the authority is lost, the credit union may no longer claim the exemptions and authority set forth in § 742.4.

(b) *Revocation of authority.* The Regional Director may revoke a credit union’s RegFlex authority under § 742.2, in whole or in part, for substantive, documented safety and soundness reasons. When revoking RegFlex authority, the regional director must give written notice to the credit union stating the reasons for the revocation. The revocation is effective upon the credit union’s receipt of notice from the Regional Director.

(c) *Appeal of revocation.* A credit union has 60 days from the date of the regional director’s determination to revoke RegFlex authority to appeal the action, in whole or in part, to NCUA’s Supervisory Review Committee. The Regional Director’s determination will remain in effect unless and until the Supervisory Review Committee issues a different determination. If the credit

union is dissatisfied with the decision of the Supervisory Review Committee, the credit union has 60 days from the date of the Committee’s decision to appeal to the NCUA Board.

(d) *Grandfathering of past actions.* Any action duly taken in reliance upon RegFlex authority will not be affected or undone by subsequent loss or revocation of that authority. Any actions exercised after RegFlex authority is lost or revoked must comply with all applicable regulatory requirements and restrictions. Nothing in this part shall affect NCUA’s authority to require a credit union to divest its investments or assets for substantive safety and soundness reasons.

§ 742.4 RegFlex Relief.

(a) *Exemptions.* RegFlex credit unions are exempt from the following regulatory restrictions:

(1) *Charitable contributions.* Section 701.25 of this chapter concerning charitable contributions;

(2) *Nonmember deposits.* Section 701.32(b) and (c) of this chapter concerning the maximum amount of nonmember deposits a credit union can accept; and

(3) *Fixed assets.* Section 701.36(a) of this chapter concerning the maximum amount of fixed assets a credit union can acquire;

(4) *Member business loans.* Section 723.7(b) of this chapter concerning the personal liability and guarantee of principals for member business loans.

(5) *Discretionary control of investments.* Section 703.5(b)(1)(ii) and (2) of this chapter concerning the maximum amount of investments over which discretionary control can be delegated;

(6) *“Stress testing” of investments.* Section 703.12(c) of this chapter concerning “stress testing” of securities holdings to assess the impact of an extreme interest rate shift;

(7) *Zero-coupon securities.* Section 703.16(b) of this chapter concerning the maximum maturity length of zero-coupon securities;

(8) *Borrowing repurchase transactions.* Section 703.13(d)(3) of this chapter, concerning the maturity of investments a credit union purchases with the proceeds received in a borrowing repurchase transaction, provided the value

of the investments that mature later than the borrowing repurchase transaction does not exceed 100 percent of the federal credit union's net worth;

(9) *Commercial mortgage related security.* Section 703.16(d) of this chapter prohibiting the purchase of a commercial mortgage related security of an issuer other than a government-sponsored enterprise enumerated in 12 U.S.C. 1757(7)(E), provided:

(i) The security is rated in one of the two highest rating categories by at least one nationally-recognized statistical rating organization;

(ii) The security meets the definition of mortgage related security as defined in 15 U.S.C. 78c(a)(41) and the definition of commercial mortgage related security as defined in §703.2 of this chapter;

(iii) The security's underlying pool of loans contains more than 50 loans with no one loan representing more than 10 percent of the pool; and

(iv) The aggregate total of commercial mortgage related securities purchased by the Federal credit union does not exceed 50 percent of its net worth.

(b) *Purchase of obligations from a FICU.* A RegFlex credit union is authorized to purchase and hold the following obligations, provided that it would be empowered to grant them:

(1) *Eligible obligations.* Eligible obligations pursuant to §701.23(b)(1)(i) of this chapter without regard to whether they are obligations of its members, provided they are purchased from a federally-insured credit union only;

(2) *Student loans.* Student loans pursuant to §701.23(b)(1)(iii) of this chapter, provided they are purchased from a federally-insured credit union only;

(3) *Mortgage loans.* Real-state secured loans pursuant to 701.23(b)(1)(iv) of this chapter, provided they are purchased from a federally-insured credit union only;

(4) *Eligible obligations of a liquidating credit union.* Eligible obligations of a liquidating credit union pursuant to §701.23(b)(1)(ii) of this chapter without regard to whether they are obligations of the liquidating credit union's members, provided that such purchases do not exceed 5 percent (5%) of the

unimpaired capital and surplus of the purchasing credit union.

[71 FR 4039, Jan. 25, 2006, as amended at 72 FR 30247, May 31, 2007]

PART 745—SHARE INSURANCE AND APPENDIX

Subpart A—Clarification and Definition of Account Insurance Coverage

Sec.

745.0 Scope.

745.1 Definitions.

745.2 General principles applicable in determining insurance of accounts.

745.3 Single ownership accounts.

745.4 Revocable trust accounts.

745.5 Accounts held by executors or administrators.

745.6 Accounts held by a corporation, partnership, or unincorporated association.

745.7 Shares accepted in a foreign currency.

745.8 Joint ownership accounts.

745.9-1 Trust accounts.

745.9-2 Retirement and other employee benefit plan accounts.

745.10 Accounts held by government depositors.

745.11 Accounts evidenced by negotiable instruments.

745.12 Account obligations for payment of items forwarded for collection by depository institution acting as agent.

745.13 Notification to members/shareholders.

Subpart B—Payment of Share Insurance and Appeals

745.200 General.

745.201 Processing of insurance claims.

745.202 Appeal.

745.203 Judicial review.

APPENDIX TO PART 745—EXAMPLES OF INSURANCE COVERAGE AFFORDED ACCOUNTS IN CREDIT UNIONS INSURED BY THE NATIONAL CREDIT UNION SHARE INSURANCE FUND

AUTHORITY: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; Title V, Pub. L. 109-351; 120 Stat. 1966.

SOURCE: 51 FR 37560, Oct. 23, 1986, unless otherwise noted.